

SERVICE DATE – NOVEMBER 3, 2017

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**Docket No. AB 6 (Sub-No. 494X)**  
**BNSF Railway Company – Abandonment Exemption**  
**In Larimer County, Colo.**

**BACKGROUND**

In this proceeding, BNSF Railway Company (BNSF) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 USC § 10903 in connection with the abandonment of a line of railroad in Larimer County, Colorado. The rail line proposed for abandonment extends 0.5 miles between Milepost 74.5 and milepost 75.0 (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad would be able to salvage remaining track, ties, and other railroad appurtenances and to dispose of the right-of-way.

**ENVIRONMENTAL REVIEW**

BNSF submitted a combined Environmental and Historic Report that concludes that the quality of the human environment would not be affected significantly from the proposed abandonment. BNSF seeks to consummate the abandonment and salvage the Line. BNSF served the Environmental and Historic Report on appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].<sup>1</sup> The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

***Diversion of Traffic***

According to BNSF, no local or overhead traffic has moved over the Line since 2009. Therefore, no traffic would need to be rerouted if the proposed abandonment were approved. Accordingly, the proposed abandonment would not adversely impact the development, use, and transportation of energy resources or recyclable commodities; adversely impact the transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

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<sup>1</sup> The Environmental and Historic Report is available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB 6 (Sub-No. 494X).

### *Salvage Activities*

Salvage and disposal of a rail line typically include the removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. BNSF states that, if abandonment were authorized, it would remove remaining track materials such as rails and ties, leaving the right-of-way, ballast, and culverts in place. BNSF states that no soil disturbance would occur. BNSF would remove and remediate any road crossings and signaling, working with governing road authorities. Several comments on the Environmental Report were submitted by state and federal agencies and are discussed in the corresponding sections below.

### *Land Use*

According to BNSF, the right-of-way along the Line is approximately 100 feet wide. Adjacent land use consists primarily of residential and recreational areas. If abandonment were approved, BNSF would remove any remaining road crossings and restore them in accordance with governing transportation authorities. Larimer County has indicated that the proposed abandonment is situated entirely within the city limits of Fort Collins and has no impacts to either county-owned property or properties subject to Larimer County's regulations. OEA has not received comment from Fort Collins regarding the proposed abandonment's consistency with local land use planning.

The United States Department of Agriculture, Natural Resource Conservation Service commented that, based on its review of the environmental and historic report, the proposed abandonment would not cause any impacts to prime, unique, or important agricultural lands.

### *Transportation and Safety*

The proposed abandonment would result in the removal of any remaining road crossings. No bridges are present on the Line. Because the Line is out of service, no freight traffic would be diverted from rail to truck transportation.

### *Coastal Zone Compliance*

Colorado does not have any designated coastal zones or a coastal zone management program.

### *Water Resources*

According to BNSF, there are no bridges or stream crossings on the Line. BNSF intends to leave the right-of-way, culverts, and ballast intact so as not to alter prevailing waterflows along the Line.

BNSF plans to conduct abandonment activities by using the existing right-of-way for access, along with existing public and private road crossings, and no new access roads are contemplated. According to BNSF, abandonment activities would not cause sedimentation or erosion of the soil, and BNSF does not anticipate any dredging or use of fill when conducting salvage activities. BNSF states that debris would not be discarded along the right-of-way and any work along the right-of-way would be subject to appropriate measures to prevent or control spills from fuels, lubricants, or any other pollutant materials.

According to BNSF, no in-stream work, dredging, or use of fill materials is are contemplated. Additionally, BNSF does not contemplate any excavation or other ground-disturbance activity, or the need for related storm water mitigation measures. The Colorado Department of Public Health and Environment (CDPHE) has not, to date, commented on the potential need for a permit under Section 402 of the Clean Water Act (33 USC § 1342). Because the proposed abandonment would not result in the discharge of wastewater or storm water, OEA concurs with BNSF that a Section 402 permit likely would not be required. Accordingly, no mitigation related to impacts to water quality is recommended. OEA will provide a copy of this EA to CDPHE for review and comment.

The US Army Corps of Engineers (Corps), Denver Regulatory Office, replied with general guidance about waters of the United States, nationwide permits, and regional general permits, but did not specifically comment on the potential impact of the proposed abandonment to waterways and wetlands or the potential need for a Corps permit under Section 404 of the Clean Water Act (33 USC § 1344). Because abandonment activities would be limited and not involve alterations of any bridges over waterways, OEA concurs with BNSF that the proposed abandonment would not result in the discharge of any dredge or fill material into waters of the United States, including wetlands, and that these activities would therefore not require a Section 404 permit. Accordingly, no mitigation related to impacts to waterways or wetlands is recommended. OEA will provide a copy of this EA to the Corps for review and comment.

### *Hazardous Materials*

BNSF states that it is not aware of any releases of hazardous substances on or near the Line. OEA's review has not found any federally listed remediation sites near the Line. Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is recommended.

### *Biological Resources*

BNSF included in its report a list of threatened and endangered species that may be located within the project area, produced using the U.S. Fish and Wildlife Service (USFWS) online Information for Planning and Consultation (IPaC) tool.<sup>2</sup> The following species were identified in that USFWS document:

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<sup>2</sup> U.S. Fish and Wildlife Service, Information, Planning, and Conservation System, <http://ecos.fws.gov/ipac> (last visited November 1, 2017).

Protected Species in Project Area	
<b>Birds</b>	<b>Status</b>
Least tern ( <i>Sterna antillarum</i> )	Endangered
Mexican spotted owl ( <i>Strix occidentalis lucida</i> )	Threatened
Piping plover ( <i>Charadrius melodus</i> )	Threatened
Whooping crane ( <i>Grus americana</i> )	Endangered
<b>Flowering plants</b>	
Colorado butterfly plant ( <i>Gaura neomexicana</i> var. <i>coloradensis</i> )	Threatened
North park phacelia ( <i>Phacelia formosula</i> )	Endangered
Ute ladies' -tresses ( <i>Spiranthes diluvialis</i> )	Threatened
Western prairie fringed orchid ( <i>Platanthera praeclara</i> )	Threatened
<b>Insects</b>	
Arapahoe snowfly ( <i>Arsapnia arapahoe</i> )	Candidate
<b>Mammals</b>	
Canada Lynx ( <i>Lynx canadensis</i> )	Threatened
North American wolverine ( <i>Gulo gulo luscus</i> )	Proposed threatened
Preble's meadow jumping mouse ( <i>Zapus hudsonius preblei</i> )	Threatened

According to the IPaC report, there are no designated critical habitats within the project area.

Due to the limited scope of the abandonment's proposed activities, OEA has determined that none of these species, if present, would be adversely affected by the proposed abandonment, and recommends no mitigation. The four species of birds and three species of mammals potentially located within the project area would not be affected because any abandonment activities would occur within the right-of-way of an established rail line and no new access roads are proposed. The proposed abandonment would not involve activities that would alter or remove habitat for these species. The four flowering plant species, while potentially present in the area surrounding the right-of-way, are likely not found within the right-of-way of the Line,. Weed control measures and routine maintenance would likely render the right-of-way inhospitable to any individuals of these species. OEA is submitting this EA to the Colorado Fish and Wildlife Office for their review and comment.

#### *Air Quality*

Because abandonment activities would be limited in scope and areal extent, and any air emissions associated with abandonment activities would be temporary, OEA believes that these operations would not have a significant impact on air quality.

### *Noise*

OEA believes that any noise impacts from abandonment activities would be temporary and should not have a significant local impact.

### *Summary*

Based on all information available to date, OEA does not believe that abandonment activities would cause significant environmental impacts. OEA is providing a copy of this EA to the following agencies: Corps, USFWS, and CDPHE.

## **HISTORIC REVIEW**

BNSF served the Historic Report on the Colorado State Historic Preservation Office (SHPO), pursuant to 49 C.F.R. § 1105.8(c). The SHPO has submitted comments stating that additional information is needed to complete its review of the proposed abandonment. Accordingly, we are recommending a condition requiring that BNSF retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

### *Consultation with Federally-Recognized Tribes*

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the National Park Service Native American Consultation Database to identify federally recognized Tribes that may have ancestral connections to the project area.<sup>3</sup> The database identified three federally-recognized Tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment: the Arapaho Tribe of the Wind River Reservation, Wyoming; the Cheyenne and Arapaho Tribes, Oklahoma; and the Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana. Additionally, the Northern Arapaho Tribe of Indians of the Wind River Reservation and the Northern Cheyenne Indians of the Tongue River Reservation, Montana, were identified as potentially having similar knowledge. Accordingly, OEA is forwarding these Tribes a copy of this EA for their review and comment.

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<sup>3</sup> National Park Service, National NAGPRA Program Native American Consultation Database, <https://grantsdev.cr.nps.gov/Nagpra/NACD> (last visited October 31, 2017).

## **CONDITIONS**

We recommend that the following condition be imposed on any decision granting abandonment authority:

- **BNSF Railway Company (BNSF) shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 54 USC § 306108, has been completed. BNSF shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the Colorado State Historic Preservation Officer (SHPO), appropriate federally recognized tribes, and the public. BNSF may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.**

## **CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended condition is imposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

## **PUBLIC USE**

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

## **TRAILS USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests if it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

## **PUBLIC ASSISTANCE**

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, 395 E. Street SW, Washington, DC 20423.

## **COMMENTS**

If you wish to file comments regarding this Environmental Assessment, comments may be mailed to the Surface Transportation Board, 395 E. Street SW, Washington, DC 20423, to the attention of Adam Assenza, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, [www.stb.gov](http://www.stb.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB 6 (Sub-No. 494X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Adam Assenza, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at [adam.assenza@stb.gov](mailto:adam.assenza@stb.gov).

Date made available to the public: November 3, 2017.

**Comment due date: November 20, 2017.**

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment